



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/764,068	01/19/2001	Jeff Scott Eder		6669

53787 7590 11/02/2009

ASSET TRUST, INC.  
2020 MALTBY ROAD  
SUITE 7362  
BOTHELL, WA 98021

EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 11/02/2009

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Notification of Non-Compliant Appeal Brief</b> <b>(37 CFR 41.37)</b>	<b>Application No.</b> 09/764,068	<b>Applicant(s)</b> EDER, JEFF SCOTT	
	<b>Examiner</b> JENNIFER LIVERSEDGE	<b>Art Unit</b> 3684	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

The Appeal Brief filed on 01 August 2009 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.  
**EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.

/Jennifer Liversedge/  
 Examiner, Art Unit 3684

Continuation of 10. Other (including any explanation in support of the above items): The Appeal Brief contains several errors as detailed herein:

\* The opening paragraph and the Status of Claims incorrectly states the status of the claims. For example, claims 53-61 are missing from the list of rejected claims that are subject of the appeal. Claim 55 particularly is an independent claim and if it is intended to cancel this claims, dependent claims therefrom would also need to be canceled. In a more minor manner, examiner also notes that claim 64 has been listed twice in both the opening paragraph and the Status of Claims.

\* It is noted in the Appeal Brief on page 3 that several claims as presented in the Appeal Brief are amended. It is further noted in the Appeal Brief that the amendments were submitted in an amendment/reply on June 30, 2009. Examiner notes that the amendments in the Appeal Brief are improper. The amendments submitted on June 30, 2009 were never examined as the Appeal Brief was submitted before a response could be prepared by the USPTO. Therefore, applicant is required to either 1) use the examined claims as filed on 1/10/2009 for the Appeal or 2) withdraw the Appeal and use claims submitted on 6/30/2009 for a response.

\* The Grounds of Rejection is confusing in that claims as rejected using different pieces of prior art are mixed together. In issues 1-3 on pages 13-14, it would be more clear if the sets of claims as rejected by certain pieces of art were grouped together.

\* Issue 5 related to the 101 rejection incorrectly states that claims 72-74 are rejected under 101.

Note: the IDSs submitted 6/1/2009 and 6/29/2009 have been considered and are included with this communication. Several pieces of NPL are current and does not apply as prior art. The references have been reviewed and considered as indicated.

The Affidavit filed on 5/13/2009 has also been considered and is hereby acknowledged.